

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS**

**TYLER DIVISION**

**DATE:** April 28, 2010

**JUDGE**  
LEONARD DAVIS

**COURT REPORTER**  
Judy Werlinger

**Law Clerks:** Natalie Alfaro

<b>SOVERAIN SOFTWARE, LLC</b>  <b>vs.</b>  <b>NEWEGG, INC. LTD</b>	<b>CIVIL ACTION NO: 6:07-CV-511</b>  <b>Jury Trial - Day 3</b>
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ATTORNEYS FOR PLAINTIFF	ATTORNEYS FOR DEFENDANTS
Kenneth Adamo (Jones Day) Tom Giannetti (Jones Day) Barry Satine (Jones Day) Clark Craddock (Jones Day) Carl Roth (Roth Firm) Michael Smith (Siebman Reynolds) Katherine Wolanyk - Client Representative	Dick Sayles (Sayles Werbner) Mark Strachan (Sayles Werbner) Kent Baldauf (The Webb Lawfirm) Dave Hanson (The Webb Lawfirm) Claudia Frost (Pillsbury Winthrop Shaw Pittman) Lee Cheng (Newegg) Mira Wolff (Newegg)

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 8:55 am

ADJOURN: 5:15 pm

8:55 am	Trial resumed. Jury not present in the courtroom.
	Court addressed the parties on objections – all objections are overruled. Court addressed Mr. Sayles on the objections to exhibits.
	Mr. Sayles addressed the Court on some other matters. Mr. Adamo responded on the 3 CompuServe manuals.
	Court asked for the jury to be brought in.
9:05 am	<b>Jury seated in the courtroom.</b> Court welcomed the jury back this morning.
	Mr. Sayles called <b>LEE CHENG</b> to the witness stand. Witness previously sworn.
	Direct examination of Mr. Cheng by Mr. Sayles.
	Mr. Sayles passed the witness. Cross examination of Mr. Cheng by Mr. Adamo.

**DAVID J. MALAND, CLERK**

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BY: Rosa L. Ferguson , Courtroom Deputy

	Mr. Adamo passed the witness. Redirect examination of Mr. Cheng by Mr. Sayles.
	Mr. Sayles passed the witness. No further questions of this witness.
	Mr. Adamo tendered <b>Plaintiff's Exhibit List 2</b> . (Note: Exhibits Listed on Plaintiff's Exhibit List 2: <b>Plaintiff's Exhibit #54, 162-176, 244, 245</b> ).
	Mr. Sayles called <b>JAMES WU</b> to the witness stand. Witness previously sworn.
	Direct examination of Mr. Wu by Mr. Sayles.
10:30 am	Court excused the Jury for recess until 10:45 am
	Mr. Adamo addressed the Court on what the witness said and what Mr. Sayles repeated. Court asked Mr. Wu to speak as slowly as possible with the language barrier. Mr. Sayles responded. Mr. Adamo addressed.
10:33 am	Court in recess.
10:50 am	Trial resumed. <b>Jury seated in the courtroom.</b>
	Court addressed the Jury.
	Direct examination of Mr. Wu by Mr. Sayles continued.
	Mr. Sayles passed the witness. Cross examination of Mr. Wu by Mr. Adamo.
	Mr. Adamo passed the witness. Redirect examination of Mr. Wu by Mr. Sayles.
	Mr. Sayles passed the witness. No further questions of this witness.
11:50 am	Court addressed the Jury and will recess the jury until 1:00 pm.
1:15 pm	Trial resumed. <b>Jury not present in the courtroom.</b>
	Mr. Giannetti addressed the Court regarding two witnesses coming up. With respect to Mr. Treese being asked about the Trewitt paper, Dft's Ex 26, and asked that the paper be excluded. Mr. Hanson responded. Mr. Giannetti further responded. Mr. Hanson responded and it is part of the record. <b>Objection is sustained.</b>
	Mr. Giannetti addressed the Court on Mr. Trevor's testimony regarding <b>Defendant's Exhibits 2, 3, &amp; 4</b> . Mr. Hanson responded. Mr. Giannetti objects to Exhibits 2-5. <b>Court overruled objection.</b>
	Mr. Giannetti addressed the Court on corroboration of Mr. Trevor's testimony. Mr. Hanson responded. Mr. Giannetti further responded. Court will hear the testimony and see where the testimony leads. Mr. Giannetti further responded on Mr. Trevor's testimony being fact and not expert.
	Mr. Hanson asked that Defendant's Exhibit #156 be admitted. Mr. Giannetti responded. Mr. Hanson further responded. Court will admit <b>Defendant's Exhibit #156</b> .
	Mr. Hanson called <b>G. WINFIELD TREECE</b> to the witness stand. Witness previously sworn.
	Cross examination of Mr. Treece by Mr. Hanson.
	Mr. Hanson passed the witness. Redirect examination of Mr. Treece by Mr. Adamo.
	Mr. Adamo passed the witness. No further questions of this witness.

	Mr. Hanson called <b>ALEXANDER TREVOR</b> to the witness stand. Witness sworn by the clerk.
	Direct examination of Mr. Trevor by Mr. Hanson.
	Mr. Hanson passed the witness.
2:50 pm	Court in recess until 3:10 pm.
3:15 pm	Jury seated in the courtroom.
	Cross examination of Mr. Trevor by Mr. Giannetti.
	Mr. Giannetti passed the witness. Redirect examination of Mr. Trevor by Mr. Hanson.
	Mr. Hanson passed the witness. No further questions of this
	Mr. Baldauf called <b>LAWRENCE STEWART</b> by Video Deposition. The video is 52 minutes long; 35 minutes is to be charged to Newegg and 17 minutes is to be charged to Soverain. Video played to the jury.
	Mr. Baldauf informed that the Stewart Deposition referenced Deposition Exhibits 4, 21, 3, 10, which are now marked as <b>Defendant's Exhibits # 1, 9, 50, &amp; 52</b> and offered them. Without objection, these exhibits admitted.
	Mr. Baldauf called <b>PAUL ESDALE</b> by Video Deposition. The video is 9 minutes, 7 of which to be charged to Newegg and 2 minutes to be charged to Soverain. Video played to the Jury.
	Court inquired as to Newegg witnesses tomorrow. Mr. Sayles outlined his witness for tomorrow: 2 more depositions of Shikhar Ghosh (33 minutes), and Eric Pyenson (4 minutes), then Tittel, expert; and then Bakewell, damages expert. Court and parties discussed time for direct and cross. Court inquired about rebuttal. Mr. Adamo will have Dr. Shamos. Time discussed.
	Court addressed the Jury regarding jury's desire on working tomorrow. Court will look at their testimony to pare it down. Court asked Jury to come in at 8:30 tomorrow.
	Mr. Adamo asked for time expended by the parties. Court advised that plaintiff has used 8 hours and 27 minutes and Defendant has used 7 hours and 12 minutes.
	Court excused the Jury for the evening and reminded them of the Court's instructions.
	Court addressed the parties about providing sandwich tray for the jury for lunch tomorrow.
	Mr. Sayles raised objections on two exhibits. Plaintiff's Exhibits #54 and 244. Mr. Sayles addressed Plaintiff's Exhibit #244. Mr. Adamo responded. Mr. Sayles responded. <b>Court sustains the objection.</b>
	Mr. Sayles addressed Plaintiff's Exhibit #54. Mr. Adamo responded. Court sustains as to 54 and asked to see 244. <b>Court sustains the objections.</b>
	Mr. Baldauf asked about admitting exhibits. Court asked that they be admitted in front of the jury.
5:15 pm	There being nothing further, Court adjourned.